

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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The Authors Guild Inc., et al.,

Plaintiffs,

— v. —

Google Inc.,

Defendant.
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Case No. 05-cv-8136 (DC)

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NOTICE OF INTENT TO
APPEAR BY THE FEDERAL
REPUBLIC OF GERMANY

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Filed Electronically

TO THE CLERK OF THIS COURT AND ALL PARTIES OF RECORD:

Please take notice that The Federal Republic of Germany ("Germany"), as amicus curiae, intends to appear at the fairness hearing on February 18, 2010 at 10:00 A.M. to object to the Proposed Amended Settlement. Germany will appear through its representative, Dr. Irene Pakuscher, Chief of the Division of Copyright and Publishing Law of the Federal Ministry of Justice and its attorneys, Theodore C. Max and Edwin Komen. Mr. Max is admitted to practice before this Court. (Dkt. No. 174). Mr. Komen has been admitted to practice *pro hac vice*. (Dkt. Nos. 232, 310).

Germany, as amicus curiae, represents the interests and rights of its citizens, authors and publishers and its long history as the birthplace of the printing press and book publishing. Germany also supports the European book-scanning project, Europeana, which unlike Google is in compliance with German law and requires obtaining permission from rightsholders before scanning copyrighted works. Germany wishes to address various issues, including, but not limited to: (1) the lack of proper notice and representation regarding the Proposed Amended Settlement Agreement as to German authors and publishers as required by Federal Rule of Civil Procedure 23; (2) the Proposed Amended Settlement Agreement's contravention of the rights of

Authors and Publishing under German law and the Berne Convention and international copyright law; and (3) the Proposed Amended Settlement's circumvention of the United States Congress's exclusive authority to amend the Copyright Act and its violation of copyright law. Germany addressed these issues in its objections to the original proposed settlement and the subsequent amended version in its Memorandum of Law in Opposition to the Settlement Proposal on Behalf of the Federal Republic of Germany and the Declaration of Ministerial Dirigent Dr. Johannes Christian Wichard in Opposition (Dkt. Nos. 179 and 180), and in its Memorandum of Law in Opposition to the Amended Settlement Agreement. (Dkt. No. 852).

Pursuant to this Court's September 8, 2009 Order with regard to the previously scheduled Fairness Hearing (Dkt. No. 716), a copy of this Notice is also being emailed to googlebookcase@nysd.uscourts.gov.

Dated: February 4, 2010

Respectfully submitted,

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

By: 

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